

**Court of Appeals, Division One**

**Civil Appeal**

**1 CA-CV 15-0375**

**DOUBLE AA v. PREFERRED**

**Appellate Case Information**

Case Filed: 10-Jun-2015

Case Closed:

**Dept/Composition**

**Department D**

Hon. Andrew W. Gould  
Hon. Peter B Swann  
Hon. Patricia A Orozco

**Side 1. DOUBLE AA BUILDERS, LTD., an Arizona corporation, Plaintiff/Appellee**

**(Litigant Group) DOUBLE AA BUILDERS LTD**

- Double AA Builders LTD

**Attorneys for: Plaintiff/Appellee**

Michael J Holden, Esq. (AZ Bar No. 6361)  
Barry A Willits, Esq. (AZ Bar No. 16091)  
R Stewart Halstead, Esq. (AZ Bar No. 3260)  
Nelson A F Mixon, Esq. (AZ Bar No. 28882)

**Side 2. PREFERRED CONTRACTORS INSURANCE COMPANY, LLC, a Montana company, Defendant/Appellant**

**(Litigant Group) PREFERRED CONTRACTORS INS CO**

- Preferred Contractors Insurance Company

**Attorneys for: Defendant/Appellant**

Robert T Sullivan, Esq. (AZ Bar No. 22719)  
Alicyn M Freeman, Esq. (AZ Bar No. 23916)  
Kevin R Myer, Esq. (AZ Bar No. 19919)

**CASE STATUS**

Dec 30, 2016....Decision Rendered

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2013-001403	Breach of Contract; Declaratory Judgment		Lori Horn Bustamante, Authoring Judge of Order		

**2 OPEN DUE DATES**

**Motion for Reconsideration due**

**Due By:** Tuesday, January 17, 2017

Re: *OPINION (Reversed, Remanded) Hon Peter B Swann - Author; Hon Andrew W Gould - Concur; Hon Patricia A Orozco - Concur*

**Petition for Review to ASC due**

**Due By:** Monday, January 30, 2017

Re: *OPINION (Reversed, Remanded) Hon Peter B Swann - Author; Hon Andrew W Gould - Concur; Hon Patricia A Orozco - Concur*

**2 CASE DECISIONS**

**28-Jul-2016 OPINION**

Samuel Thumma.....Author  
Kent Cattani.....Concur  
Randall Howe.....Concur

Filed: **28-Jul-2016** Mandate:

Decision Disposition

***Appeal Reinstated***

**30-Dec-2016 OPINION**

Peter Swann.....Author  
Andrew Gould.....Concur  
Patricia Orozco.....Concur

Filed: **30-Dec-2016** Mandate:

Decision Disposition

***Reversed  
Remanded***

**61 PROCEEDING ENTRIES**

1. 10-Jun-2015 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 05/11/15

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2.	10-Jun-2015	FILED: e-Record on Appeal: Instruments/Minute Entries
3.	16-Jun-2015	FILED: Notice to Parties re: Appellant's Fee/Case Management Statement/Brief Due
4.	16-Jun-2015	FILED: Notice of Payment of Filing Fee; Certificate of Service re: Notice of Payment of Filing Fee (Appellant)
5.	19-Jun-2015	RECEIPT No.: 2015-00849 ; \$280.00, Authorization: # 69013003221, Applied to: PREFERRED CONTRACTORS INS CO - Class A Filing Fee (\$280.00) Paid for: Broening Oberg Woods & Wilson PC - By Integrated Resource Systems
6.	29-Jun-2015	FILED: Appellee's Notice re: Appellee's Fee/Appellant's Brief Due
7.	1-Jul-2015	FILED: Notice of Appearance; Certificate of Service (Appellee)
8.	6-Jul-2015	FILED: Case Management Statement; Certificate of Service (re: Case Management Statement) (Appellant)
9.	7-Jul-2015	RECEIPT No.: 2015-00922 ; \$140.00, Authorization: #87015715651, Applied to: DOUBLE AA BUILDERS LTD - Appellee's Filing Fee (\$140.00) Paid for: Holden Willits PLC - By Integrated Resource Systems IN
10.	8-Jul-2015	RECEIPT No.: 2015-00925 ; \$140.00, Authorization: #87015715651, Applied to: DOUBLE AA BUILDERS LTD - Class B Filing Fee (\$140.00) Paid for: Holden Willits PLC - By Integrated Resource Systems IN (Memo: X-ref 2015-00922)
11.	8-Jul-2015	VOID RECEIPT No.: 2015-00922 - \$-140.00, Authorization: #87015715651, - Applied to: DOUBLE AA BUILDERS LTD - Appellee's Filing Fee (\$-140.00) Paid for: Holden Willits PLC - By: Integrated Resource Systems IN VOID Reason: x-ref 2015-00925 incorrect receivable. alc
12.	12-Aug-2015	FILED: Request for Extension of Time Re Opening Brief; Certificate of Service (Appellant)
13.	13-Aug-2015	ORDERED: Request for Extension of Time Re Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 08-17-2015 to Wednesday, 09-16-2015. Melina Brill ProTem Judge - Author
14.	8-Sep-2015	FILED: Request for Extension of Time Re Opening Brief; Certificate of Service (Appellant)
15.	9-Sep-2015	ORDERED: Request for Extension of Time Re Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Wednesday, 09-16-2015 to Monday, 09-28-2015. Melina Brill ProTem Judge - Author
16.	28-Sep-2015	FILED: Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
17.	30-Sep-2015	FILED: Request for Oral Argument; Certificate of Service (Appellant)
18.	27-Oct-2015	FILED: Appellee's Request for Extension of Time to File Response Brief; Certificate of Service (Appellee)
19.	28-Oct-2015	ORDERED: Appellee's Request for Extension of Time to File Response Brief (Appellee) (Answering)= GRANTED. Due date EXTENDED from Monday, 11-16-2015 to Wednesday, 12-16-2015. Melina Brill ProTem Judge - Author
20.	16-Dec-2015	FILED: Request for Extension of Time for Reply Brief; Certificate of Service (Appellant)
21.	16-Dec-2015	FILED: Appellee Double AA Builders, Ltd.'s Answering Brief; Appellee's Certificate of Compliance; Appellee's Certificate of Service
22.	16-Dec-2015	FILED: Appellee Double AA Builders, Ltd.'s Separate Appendix (Appellee)
23.	17-Dec-2015	ORDERED: Extending the time to file the Reply Brief to/including 2/1/16. Melina Brill ProTem Judge - Author
24.	28-Jan-2016	FILED: Request for Extension of Time for Reply Brief; Certificate of Service (Appellant)
25.	29-Jan-2016	ORDERED: Request for Extension of Time for Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 02-01-2016 to Monday, 02-08-2016. Barbara Vidal Vaught ProTem Judge - Author
26.	8-Feb-2016	FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
27.	2-Mar-2016	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days

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28. 9-Mar-2016 ORDERED: Request for Oral Argument (Appellant) = GRANTED. Hon Michael J Brown - Author
29. 11-Mar-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record
30. 31-Mar-2016 ORDERED: consolidating cases 1 CA-CV 15-0047, 1 CA-CV 15-0107, 1 CA-CV 15-0127, 1 CA-CV 15-0249, 1 CA-CV 15-375, 1 CA-CV-15-0508, 1 CA-CV 15-0513, 1 CA-CV 15-0624, 1 CA-CV 15-0689, 1 CA-CV 15-0728, 1 CA-CV 15-0753, 1 CA-CV 16-0002 and 1 CA-CV 16-0042 for a limited purpose of considering this court's appellate jurisdiction in these cases. Case No 1 CA-CV 15-0047 is designated as primary number and above caption (or a shortened version listing at a minimum captions in Case No. 1 CA-CV 15-0047 and case number(s) in which filer is a party) shall be used on all future documents filed. FURTHER ORDERED: Directing any party to this consolidated appeal wishing to be heard on issue of whether order being appeal from in their specific case(s) must contain Rule 54 (c) language may file a memorandum, not to exceed 10 pages, on/before 4/20/16. No responses to memoranda will be permitted. Court will only accept a memorandum addressing this issue if filing party has paid filing fee in case number(s) in which filer is a party. FURTHER ORDERED: Staying all other aspects of this consolidated appeal that do not relate to Rule 54 (c) issue pending further order. Hon Kent E Cattani Judge - Author
31. 11-Apr-2016 FILED: Appellees' Reply in Support of Motion to Supplement the Record on Appeal; Certificate of Filing and Service Regarding Appellees' Reply in Support of Motion to Supplement the Record on Appeal (Appellees re 1 CA-CV 15-0107)
32. 3-May-2016 ORDERED: any response to motion to strike (surreply in CV-15-0728) must be filed on/before 5/13/16. Appellant may file a reply in accordance with ARCAP 6 (a) (2). FURTHER ORDERED: Court will rule on motion following expiration of time for a response and, if applicable, a reply. Melina Brill ProTem Judge - Author
33. 11-May-2016 FILED: Appellee's Response to Appellants Motion to Strike Appellees Surreply to Appellants Rebuttal to Appellees Answer Brief; Proof of Service (Appellee, Erlick re 1 CA-CV 15-0728)
34. 26-May-2016 ORDERED: Consolidating case 1 CA-CV 15-0276 with previously consolidated case 1 CA-CV 15-0047 for sole purpose of considering Court's appellate jurisdiction. Case No. 1 CA-CV 15-0047 is designated primary number. FURTHER ORDERED: Removing case 1 CA-CV 16-0002 from this consolidated appeal. FURTHER ORDERED: Continuing stay of this consolidated appeal until further order. FURTHER ORDERED: Any party in 1 CA-CV 15-0276 that wishes to be heard on issue of order being appealed from is required to contain Rule 54(c) language may file a memorandum on/before 06/06/2016. Hon Kent E Cattani Judge - Author
35. 27-May-2016 FILED: Appellants Reply to Appellees Response to Strike Appellees Surreply to Appellants Rebuttal to Appellees Answer Brief (Appellant Pro Per, Davis re 1 CA-CV 15-0728)
36. 2-Jun-2016 FILED: Motion by Tri-Rentals, Inc. and Classic Party Rentals, Inc. to Remove Their Appeal from Consolidation and Lift Stay; Certificate of Service; Exhibit A (Appellants re 1 CA-CV 16-0042)
37. 6-Jun-2016 FILED: Plaintiff's Response in Support of Motion by Tri-Rentals, Inc. and Class Party Rentals, Inc. to Remove Thier Appeal from Consolidation and Lift Stay; Certificate of Service (Appellee re 1 CA-CV 16-0042)
38. 7-Jun-2016 ORDERED: Removing CV 15-0276 from consolidated appeal. Hon Kent E Cattani Judge - Author
39. 7-Jun-2016 ORDERED: Removing CV 16-0042 from consolidated appeal. Hon Kent E Cattani Judge - Author
40. 10-Jun-2016 FILED: Appellee's Motion to Strike; Proof of Service (Appellee, Erlick re 1 CA-CV 15-0728)
41. 17-Jun-2016 FILED: Motion for Reconsideration Concerning Appellants Motion to Strike Appellees Surreply (Appellant Pro Per, Davis re 1 CA-CV 15-0728)
42. 22-Jun-2016 ORDERED: Consolidating case 1 CA-CV 16-0294 with case 1 CA-CV 15-0047 for sole purpose of considering this court's appellate jurisdiction. Case 1 CA-CV 15-0047 is designated the primary number. FURTHER ORDERED: Continuing stay of this consolidated appeal until further order. FURTHER ORDERED: Any party in case 1 CA-CV 16-0294 that wishes to be heard on issue regarding order containing Rule 54(c) language, memorandum due 07/05/2016. Hon Kent E Cattani Judge - Author
43. 27-Jun-2016 FILED: Motion for Appointment of Counsel (Appellant Pro Per)
44. 29-Jun-2016 FILED: Appellee's Response to Notice to the Court that Appellee Will Consider Appellants Request for Sanctions as Part of Appellants Motion for Reconsideration and Will not Respond Unless Requested by the Court; Proof of Service (Appellee)
45. 29-Jun-2016 FILED: Appellee's Reply to Appellant's Response to Appellee's Motion to Strike; Proof of Service (Appellee)

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46. 6-Jul-2016 ORDERED: Denying Erlick's motion to strike Davis's reply. FURTHER ORDERED: Denying Davis's motion for reconsideration. FURTHER ORDERED: Denying Erlick's motion to strike Lavoie's rebuttal because that pleading was not accepted for filing. FURTHER ORDERED: Taking no action on Erlick's response to Lavoie's motion for permissive joinder and motion to intervene. Hon Maurice Portley - Author
47. 11-Jul-2016 FILED: Courtesy Copy - Copy of my Medical Benefits for State of Calif Gov. Program (Debra Lavoie)
48. 28-Jul-2016 OPINION (Appeal Reinstated) Hon Samuel A Thumma - Author; Hon Kent E Cattani Judge - Concur; Hon Randall M Howe - Concur
49. 28-Jul-2016 FILED: Opinion Distribution List
50. 28-Jul-2016 ORDERED: deconsolidating this appeal from appeal 1 CA-CV 15-0047. FURTHER ORDERED: terminating stay and reinstating this appeal. FURTHER ORDERED: appeal shall be scheduled for consideration on the merits. Hon Kent E Cattani Judge - Author
51. 26-Sep-2016 CLNDR: MONTHLY COURT CASE CALENDAR, Department D, 11-16-16, 10:15 am, COURTROOM 2.
52. 5-Oct-2016 FILED: Notice of Oral Argument
53. 17-Oct-2016 ORDERED: vacating oral argument on 11/16/2016, and resetting oral argument to 11/30/2016 at 10:15 a.m. in Courtroom 2 before Department D. Hon Andrew W Gould - Author
54. 2-Nov-2016 FILED: Receipt for Notice of Oral Argument, signed by Alicyn M Freeman on 10/05/2016 (Appellant)
55. 2-Nov-2016 FILED: Receipt for Notice of Oral Argument, signed by Barry A Willits on 10/17/2016 (Appellee)
56. 2-Nov-2016 FILED: Certificate of Service (re: Receipt for Notice of Oral Argument) (Appellee)
57. 30-Nov-2016 FILED: Sign-in Sheet/Case is Under Advisement as of 11/30/2016 (Dept D)
58. 30-Dec-2016 FILED: Statement of Costs; SOC (Appellant)
59. 30-Dec-2016 OPINION (Reversed, Remanded) Hon Peter B Swann - Author; Hon Andrew W Gould - Concur; Hon Patricia A Orozco - Concur
60. 30-Dec-2016 FILED: Opinion Distribution List
61. 3-Feb-2017 ORDERED: awarding Defendant/Appellant their costs in the amount of \$394.00. Amy M Wood - Author